

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
at Nashville**

In re:)
)
KEITH LINDSEY HARVILLE (XXX-XX-6582)) Case No. 15-05315
GUADALUPE PINEDA HARVILLE) Chapter 7
(XXX-XX-0135)) Judge Marian F. Harrison
2792 LAFAYETTE DRIVE)
THOMPSON STATION, TN 37179)
)
Debtor(s).)
)
SANTANDER CONSUMER USA INC.)
)
Movant,)
v.)
)
KEITH LINDSEY HARVILLE and)
GUADALUPE PINEDA HARVILLE,)
and MICHAEL R. GIGANDET, Trustee)
)
Respondents.)

**MOTION BY SANTANDER CONSUMER USA INC.
FOR RELIEF FROM THE AUTOMATIC STAY**

Santander Consumer USA Inc. (“Santander”), a secured creditor, by and through its counsel, moves this Court to grant it relief from the automatic stay. In support of this Motion, Santander states as follows:

1. This Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §§ 157 and 1334. This Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).
2. On July 31, 2015, the Debtors filed for relief under Chapter 7 of the United States Bankruptcy Code in the Middle District of Tennessee (the “Petition Date”).
3. Santander is a secured creditor of the Debtors by virtue of a Retail Installment Sale Contract dated May 19, 2012 (the “Contract”), for which Debtors purchased

a certain 2012 Dodge Charger bearing VIN 2C3CDXBG3CH245173 (the "Collateral").

4. Santander was granted a first priority, unavoidable, validly perfected security interest in the Collateral as evidenced by its notation as lienholder on the Certificate of Title.
5. A copy of the Contract and the Certificate of Title are attached hereto.
6. As of August 26, 2015, the payoff on the Contract was \$13,974.03.
7. The value of the Collateral securing Santander's claim is \$18,800.00.
8. Upon information and belief, the Collateral was involved in a motor vehicle accident on or about August 16, 2015, and has been deemed a total loss by the insurance company. Santander expects to receive \$19,117.49 in payment of the claim.
9. As evidenced by the terms of the Contract, Santander is entitled to its attorney's fees and costs incurred for the filing and litigation of this Motion. *Traveler's Cas. & Sur. Co. of America v. Pacific Gas & Elec. Co.* 549 U.S. 443, 127 S.Ct. 1199, 1203, 167 L. Ed. 2d 178 (2007).
10. Cause exists for relief from the automatic stay pursuant to 11 U.S.C. § 362(d).
11. Pursuant to 11 U.S.C. § 554(b), abandonment by the Trustee is just and proper.
12. Santander additionally requests that the provisions of Fed. R. Bankr. P. 4001(a)(3) be waived, and Santander be allowed to immediately enforce any order entered granting it relief from stay.

WHEREFORE, Santander Consumer USA Inc. requests that:

1. The Court grant Santander relief from the automatic stay to permit it to foreclose upon and otherwise exercise its right with respect to the Collateral in accordance with applicable non-bankruptcy law;
2. The Trustee's abandonment of the Collateral be approved;

3. Santander be granted its attorney's fees and costs, and be granted the right to file an amended proof of claim, which shall be deemed timely filed;
4. The provisions of Fed. R. Bankr. P. 4001(a)(3) be waived; and
5. Santander be granted such other and further relief as the Court deems appropriate.

Respectfully submitted,

/s/ Victoria A. Ferraro
Victoria A. Ferraro (020707)
PROCHASKA QUINN & FERRARO, P.C.
401 Church Street, Suite 2600
Nashville, Tennessee 37219
Phone: (615) 242-0060
Facsimile: (615) 242-0124
Email: victoriaferraro@pqflegal.com

Attorneys for Santander Consumer USA Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy hereof has been served, via electronic transmission or via first-class U.S. Mail, postage prepaid, to the following:

Alexander S. Koval
Rothschild & Ausbrooks, PLLC
1222 116th Avenue South
Suite 12
Nashville, TN 37212-2926

Keith & Guadalupe Harville
2792 Lafayette Drive
Thompson Station, TN 37179

Michael Gigandet
Law Office of Michael Gigandet
208 Centre Street
Pleasant View, TN 37146

Beth Derrick
United States Trustee's Office
701 Broadway, Room 318
Nashville, Tennessee 37203

Dated: September 1, 2015.

/s/ Victoria A. Ferraro
Victoria A. Ferraro